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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/376,811	08/18/1999	JOSEPH C. JENNIGES	494.004US1	6977
21186	7590	08/23/2004	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			GORT, ELAINE L	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/376,811

Applicant(s)

JENNIGES ET AL.

Examiner

Elaine Gort

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6, 10, 14-19 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho et al. (US Patent 6,120,300) in view of Examiner's Official Notice.

Ho et al. discloses the claimed method for providing incentive but is silent regarding the participant participating in the setting and selection of their goals. Examiner takes Official Notice that it is notoriously old and well known in the art of incentive and reward systems for participants to partake in the setting and selection of goals to in order to encourage or motivate a participant to buy into achieving the goals to further motivate participants to accomplish the established goals. For example, a teacher or employer will involve the student or employee in goal setting in order to increase the chances that the goals will be accomplished. It is also well known that individuals reward themselves for hard work with nice meals, breaks, chats with friends, or other things they enjoy. It would have been obvious to one having ordinary skill in the art at the time the

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invention was made to provide the method of Ho et al. with participant participation in goal setting and selection of Examiner's Official Notice in order to further motivate participants to accomplish the established goals.

Ho et al. discloses a method for storing predetermined goal data of a participant, the goal data including at least one minimum threshold level of performance, where the goal data further comprises an identification of one of the at least one minimum threshold level of performance as a desired level of performance (Ho system stores goal data established by instructor or other individual/sponsor which includes threshold levels and desired levels of performance e.g. milestones and rewards representing desired levels of performance; capable of quantifying by measuring anticipated performance—scoring system; student can establish desired level of performance relative to rewards); storing historical performance data of participant (e.g. performance data used in performance analysis); comparing historical performance data to the goal data and generating a result indicating progress toward goal (e.g. performance analysis and determination of reward; quantitative analysis; storage of reward data) and transmitting results (e.g. report given to instructor and participant); generates and stores a list of eligible participants (eligible participants are ones (students and instructors) capable of using system which give consent when begin using system); issuing of award (instructor or sponsor provides award); perquisite (student given perks as awards—reward medium or access to reward generator which generates reward); and modifying the predetermined goal data using performance data (system adapts for student for

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self education and system provides instructor feedback to adjust goals and threshold levels based on students performance).

Regarding the system being used for a plurality of participants, the system of Ho et al. could be used for more than one student with varying goal requirements and thus be used for a plurality of participants.

3. Claims 1-4 and 6-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho et al. in view of Examiner's Official Notice and Noori.

Ho et al. discloses the claimed method (as best understood) but is silent regarding the participant participating in the setting and selection of their goals and the use of the method for providing incentives for sales, safety compliance, efficiency, cost-savings, display installation, demonstrations, and time goals.

Examiner takes Official Notice that it is notoriously old and well known in the art of incentive and reward systems for participants to partake in the setting and selection of goals to in order to encourage or motivate a participant to buy into achieving the goals to further motivate participants to accomplish the established goals.

Noori discloses that it is known in the art to provide a reward system in a firm to encourage employees to act in a manner consistent with the firm's goals and objectives and to attract and keep high-quality employees. Firm goals commonly encompass requirements such as sales, safety compliance, efficiency, cost-savings, display installation, demonstrations, and time goals.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the method of Ho et al. with the participant participation in goal setting of Examiner's Official Notice and the use of a reward system in a firm to provide incentives for getting employees to act in a manner consistent with the firm's goals as taught by Noori in order to further motivate participants to accomplish established goals and to provide incentives for employees to meet their firm's goals in areas such as safety compliance, efficiency, cost-savings, display installation, demonstrations, and time goals.

Additionally, Ho et al. does not expressly show the claimed data including: safety compliance, efficiency, cost-savings, display installation, demonstrations, and time goals. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The claimed steps would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms or patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to perform the claimed steps using any type of data. Because such data does not functionally related to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

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***Response to Arguments***

4. Applicant's arguments with respect to claims 1-4 and 6-25 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is (703)308-6391. The examiner can normally be reached on Monday through Thursday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703)308-5183. The fax phone number for the organization where this application or processing is assigned is (703)872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.



Elaine Gort  
Examiner  
A.U. 3627

August 20, 2004